



Colorado Department of Health Care Policy & Financing **Memorandum**

To: Alternative Care Provider Community

From: Executive Director, Joan Henneberry

Date: October 29, 2008

Re: IMD/ACF Issue

Dear Provider:

This communication is intended as a first in a series concerning steps the State is taking to address the Institute for Mental Disease/Alternative Care Facilities issue.

During the renewal of the Home and Community-Based Waiver for Persons with Major Mental Illness, the Centers for Medicare and Medicaid Services (CMS) raised concerns regarding the Institutions for Mental Disease (IMD) and Alternative Care Facilities (ACF). These issues include quality of care and Federal regulations and statutes regarding Federal Financial Participation (FFP) for facilities that are institutional in nature and do not provide a home-like environment. As a part of the renewal process for the waiver, the Department agreed to address CMS' concerns and make appropriate changes related to quality of care. This resulted in statewide outreach and education meetings between November 2007 and January 2008.

On August 7, 2008, the State received a communication from CMS outlining a timeline for compliance associated with the federal prohibition of FFP for individuals who have a current primary diagnosis of a major mental illness and are residing in ACFs. The Department met with representatives of the state Attorney General's Office and Governor's Office and will be pursuing a three pronged approach to address concerns raised by CMS. This approach will include sending a position letter to CMS within the next two weeks challenging the definition of an IMD; establishing a framework for creating an assessment tool for determining institutional status; and implementation of a rule through our Medical Services Board defining the criteria for the assessment tool.

The Attorney General will be reaching out to CMS this week in order to request that they lift the December 31st deadline while we work towards a resolution to this issue. If CMS does not grant our request, we will appeal.

The State will keep providers and stakeholders apprised of our actions as we continue to sort through options available to the ACF community. We will continue to send out communications updating you on the progress of our efforts.